

REMARKS

The foregoing amendment amends Claim 36. Now in the application is Claim 36, which is independent, Claims 1-34 have been withdrawn without prejudice to filing one or more continuation or divisional applications based on the same or similar claims. Claim 35 is cancelled. No new matter has been added and no new issues are raised.

Applicants thank the Examiner for the helpful comments offered during the telephone interview on August 1, 2008 and again on September 18, 2008 to discuss independent claim 36.

Claim Amendments

Amendments to Claim 36 are meant to address the clarify issues raised by the Examiner during the recent telephone interview. More specifically, the amendments to Claim 36 are meant to clarify the claim terminology by including identifiers in parenthesis and by arrainging the claim elements in a more logical order.

Support for the amendments to Claim 36 can be found at least on page 10, line 18 to page 16, line 25 of the specification and Figures 9, 10A and 10B.

Claim Rejections under 35 U.S.C. §112, 2nd paragraph

Claim 36 stands rejected under 35 U.S.C. §112, 2nd paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. More specifically, the Examiner contends that “the timeline for the method of operating the fuel cell is awkward and unclear and as such not distinctly claimed.”

Applicants respectfully contend that methodology recited in Claim 36 is clear, readable and fully understandable by one skilled in the art. Nonetheless, to expedite prosecution Applicants amend Claim 36 to add identifiers in parentheses, rewrite and reorder some recited elements. The amendments to Claim 36 are not meant to address any art rejection, but rather are meant to improve readability.

Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of Claim 36 under 35 U.S.C. §112, 2nd paragraph.

Claim rejections under 35 USC § 103

Claim 36 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kimura *et al.* (5,964,309) in view of JP 08-214452 (Takeshi). Applicants respectfully traverse the rejection based on the foregoing amendments and the following argument.

In addition to the lack of teachings regarding capacitors noted by the Examiner, Applicants submit that the gas shortage state addressed by Kimura is different from the gas shortage state addressed by the fuel cell power supply unit of Claim 36. In Kimura, when charging is required, the fuel cell supplies not only the voltage required for the load current, but also the voltage required for charging. The fuel cell of Kimura supplies more voltage than the voltage required just for the load current, and if the fuel cell is supplied with the reacting gas just in the amount required for the load current, the system of Kimura would experience a shortage of the reacting gas. Thus, the system of Kimura is adapted to supply the reacting gas for outputting the voltage for required charging as well as the reacting gas for outputting the voltage for the load current. As such, Kimura's system supplies reacting gas after the variation in the load. See, Figure 7 of Kimura.

Moreover, the amount of reacting gas supplied by Kimura is determined by multiplying a theoretically required gas amount by a predetermined excessive rate. *See*, Kimura, Col. 12, lines 47-49. However, Kimura is silent on how the predetermined excessive rate is achieved.

Takeshi does not cure the factual deficiencies of Kimura. In Takeshi, the internal resistance is used to determine whether the electric double layer capacitor is in the degradation acceleration state. Takeshi is concerned with preventing the degradation acceleration state of the electric double layer capacitor and proposes a current limiting circuit to prevent the degradation. Takeshi is not concerned with determining an excess supply amount of a reacting gas.

In contrast, the fuel cell power supply unit of Claim 36 recites, amongst other features, *determining the excess supply amount of the reacting gas based on the supply amount of reacting gas (Qa_1) corresponding to the output current (I_{fc2}), and in advance of the variation of electrical load*, supplying the reacting gas in an amount which includes the excess supply amount in addition to an equilibrium reacting gas supply amount.

Thus for at least this reason, neither Kimura nor Takeshi alone or in combination teach or suggest each and every element of Claim 36.

Further, the two conclusions reached by the Examiner in the Office Action are overreaching and fail to identify each and every element recited in Claim 36. With respect to the first stated conclusion, no support, other than a conclusory statement, is offered to reach a finding that Kimura teaches or suggests how the apparatus of Claim 36 achieves the supply of an excess fuel amount. Likewise, the second stated conclusion regarding one skilled in the art is also over reaching because the statement is merely a conclusion without any support that one skilled in the art would practice the invention as recited in Claim 36.

Accordingly, Applicant requests the Examiner to reconsider and withdraw the rejection to Claim 36 under 35 U.S.C. § 103.

CONCLUSION

In view of the above amendment and argument, Applicants contend the pending application is in condition for allowance.

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